Government of Saskatchewan

Annual Report 2002 - 2003

Law Reform Commission of Saskatchewan

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104-00713/

ANNUAL REPORT
2002-2003

Law Reform Commission of Saskatchewan

The Law Reform Commission of Saskatchewan was established by An Act to Establish a Law Reform Commission, proclaimed in November, 1973, and began functioning in February of 1974.

The Commissioners are:

Ms Merrilee Rasmussen, Q.C., Chair
Mr. Kenneth P. R. Hodges, Q.C.
Ms Michaela Keet
Mr. Alan McIntyre
Ms Susan Amrud, Q.C.
Ms Bonnie Missens

Mr. Michael Finley is Director of Research.

The Commission research office is located at:
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Saskatoon, Saskatchewan
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Letters of Transmittal

The Honourable Lynda Haverstock
Lieutenant Governor
Province of Saskatchewan

Your Honour:

I have the honour of submitting the Annual Report of the Law Reform Commission of Saskatchewan for the period April 1, 2002, to March 31, 2003.

Respectfully submitted,

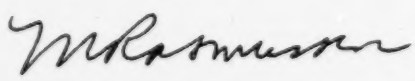
Eric Cline, Q.C.
Minister of Justice
and Attorney General

The Honourable Eric Cline, Q.C.
Minister of Justice and Attorney General
Regina, Saskatchewan

Sir:

I have the honour of submitting the Annual Report of the Law Reform Commission of Saskatchewan for the period April 1, 2002, to March 31, 2003.

Respectfully submitted,



Merrilee Rasmussen, Q.C.
Chair

Objectives

The Law Reform Commission Act provides that:

"The Commission shall take and keep under review all the law of the province, including statute law, common law and judicial decisions, with a view to its systematic development and reform, including the codification, elimination of anomalies, repeal of obsolete and unnecessary enactments, reduction in the number of separate enactments and generally the simplification and modernization of the law."

Topics for the Commission's research program are brought before meetings of the Commission for consideration. These topics may originate from a recommendation of the Minister of Justice, from the Commission and its staff, from the judiciary, from the legal profession, from other professional organizations, or from the public generally.

Once the research study in a particular project is completed, the matter is placed before the Commission for discussion and consideration. The Commission may decide to issue background papers or tentative proposals for circulation to the public in order to obtain criticism and comment prior to the preparation of a final report. This may entail public meetings, hearings and workshops. The Commission's recommendations are embodied in its final report to the Minister of Justice.

The Commission works closely with the Department of Justice in formulating research projects and facilitating adoption of its proposals. The Commission has also made an on-going contribution on behalf of the Province to the national work of the Uniform Law Conference of Canada. Commissioners and the Director of Research have served as members of the Conference for many years.

The Commission is a member of the Federation of Law Reform Agencies of Canada.

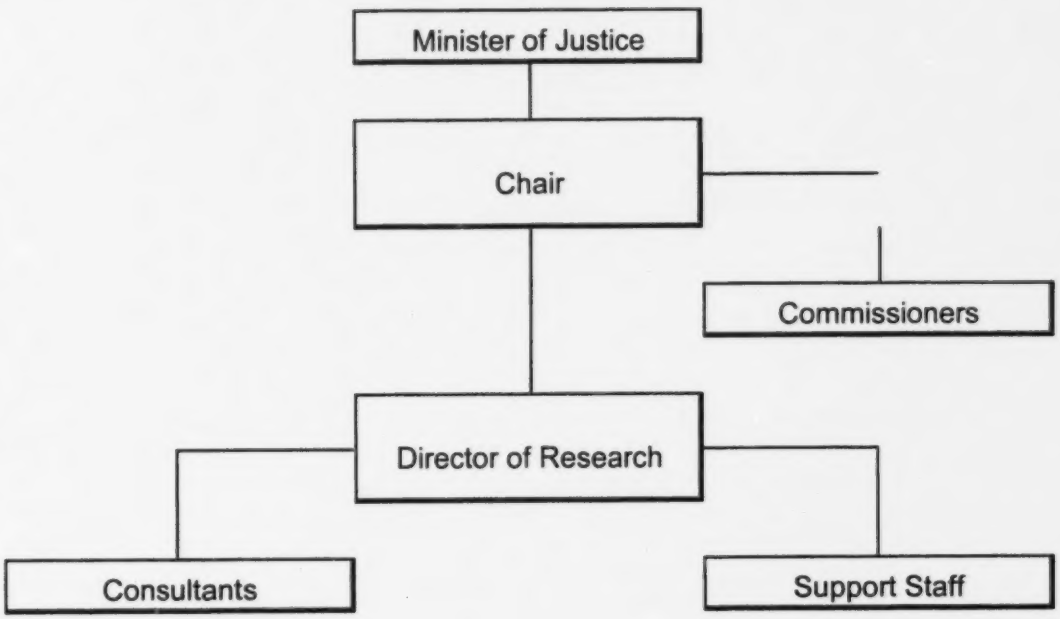
The Commissioners and Staff

The Law Reform Commission Act provides that the Minister of Justice shall appoint a Chair and not less than two other members of the Commission. Ms Merrilee Rasmussen, Q.C., is Chair of the Commission. The other Commissioners are Kenneth P.R. Hodges, Q.C. (who was Chair from 1992-2000), Professor Michaela Keet of the College of Law, University of Saskatchewan, Mr. Alan McIntyre, a member of the Robertson Stromberg law firm in Regina, Ms Susan Amrud, Q.C., of the Saskatchewan Department of Justice, and Ms Bonnie Misssesn, a member of the Worme, Semaganis and Missens law firm in Saskatoon.

Mr. Michael Finley is Director of Research.

Previous members of the Commission are Professor Brian A. Grosman, Q.C. (Chair 1978-82), Professor R.C.C. Cuming, Q.C. (Chair 1978-82), Dr. D.A. Schmeiser, Q.C. (Chair 1982-87), Mr. Dale Linn, Q.C. (Chair 1987-92), Chief Justice E.D. Bayda (1974-76), Mr. George J.D. Taylor, Q.C. (1974-82), Madam Justice Marjorie A. Gerwing (1976-92), Mr. Gordon J. Kuski, Q.C. (1982-92), Madam Justice Gene Anne Smith (1992-98), Ms Gailmarie Anderson (1992-2001), Judge Dianne Morris (1992-2002) and Mr. Douglas Moen, Q.C. (2000-2002).

Organization Chart



Financial Information

The Law Reform Commission is financed by the Province of Saskatchewan and the Law Foundation of Saskatchewan, and receives annual matching grants of $60,000.00 from each.

Commissioners receive honoraria from the Law Reform Commission of Saskatchewan based on the Order-in-Council by which they are appointed. The Chair receives $235 per day when engaged in work of the Commission and Commissioners receive $155 per day. The Director of Research is employed on a contractual basis at the rate of $70,000.00 per annum.

Research Program and Activities

1. Research Completed 2002-2003

The Commission completed two research projects during the current fiscal year.

Proposals for Reform of *The Trustees Act*: This report, issued in December, 2002, completes the Commission's project on the law of trusts. It is the product of an extensive research program that included circulation of consultation papers on aspects of the law of trusts for comment from the bar and public. The report recommends adoption of a modernized *Trustees Act* reflecting the contemporary needs of settlors, testators, and trustees

Report on the Liability of Directors and Officers of Non-Profit Organizations: This report, issued in March 2003, completes the Commission's project on the personal liability of board members in the not-for-profit sector. A consultation paper issued in July 2001 was the basis for consultations with the sector, the bar, and regulators. The final report proposes significant limitation on the personal liability of directors and officers of volunteer organizations.

The consultations conducted by the Commission and its final report relating to liability of directors and officers of non-profit corporations led to the introduction of amendments to *The Non-profit Corporations Act, 1995* in the Saskatchewan Legislature on May 1, 2003. The amendments (Bill 29) were given third reading on June 5, 2003, and will come into force when the Bill receives Royal assent.

These reports can be found on the Commission's website at www.lawreformcommission.sk.ca.

2. Inventory of Law Reform Issues

The Commission has recently undertaken the task of compiling an inventory of law reform issues in Saskatchewan. The inventory process was designed to identify emerging trends in law and society as well as more discrete topics for law reform. Consultation with interested groups, individuals, and organizations focused on identification of issues and challenges, grouped about eight major themes:

Democracy
Aboriginal Peoples
Human Rights
Families and Children
Vulnerable Adults
Communities and the Environment
Administrative Law and Procedure
Technical Legal Issues

The inventory will serve as a basis for the future work of the Commission. The Commission is also hopeful that it will assist legislators, researchers, and others interested in law reform to identify emerging needs of the justice system in Saskatchewan.

2. Current Research Program

Administrative Law: The project responds to a perceived need for clear and accessible legislative guidance for the wide range of decision-making by boards and tribunals operating under provincial law.

The first phase of the project focuses on the concept of a model procedural code to guide the work of administrative tribunals established under Saskatchewan legislation. A consultation paper, *A Model Code of Procedure For Administrative Tribunals*, was issued in May, 2003. The Commission is now engaged in a consultation process.

The second phase of the project will consider procedure before disciplinary committees and tribunals of self-governing professions regulated by Saskatchewan legislation. A third phase will look at appeals from administrative tribunals.

Wills and Estates: During the course of consultations with members of the Saskatchewan bar as part of the Commission's inventory of law reform issues, concern about several matters involving the law of wills and administration of estates was identified. The Commission will give priority to research on these matters in 2003.

Aboriginal self-government: The Commission is working jointly with the Law Commission of Canada to investigate issues relating to Aboriginal self-government in a broad social and political context.

The first phase of the project was the preparation of a paper that was presented at a national conference on "Governance, Self-government and Legal Pluralism" sponsored by the Assembly of First Nations and held in Hull, Quebec on April 23-24, 2003. The paper was prepared in consultation with the Commission Chair, Merrilee Rasmussen, by John Whyte, Q.C., former Deputy Minister of Justice for Saskatchewan. It is anticipated that the paper will lead to a second phase of the project that will focus on practical implementation of Aboriginal Self-government as a means to community development.

Joint Projects with other western law reform agencies: At the initiative of the Saskatchewan Law Reform Commission, representatives of law reform agencies in British Columbia, Alberta, Saskatchewan, and Manitoba have met to discuss joint projects. Candidates for joint projects include topics in which uniformity of law is an important consideration. Several projects are currently under consideration. It is anticipated that the first joint project in relation to powers of attorney will be undertaken in 2003.

Research in consultation with the Department of Justice: The Commission is assisting the Department of Justice in its review of *The Limitation of Actions Act*. This legislation has been the topic of several reports issued by the Commission.

The Commission has also undertaken a review of history of *The Saskatchewan Evidence Act*. This research is intended to facilitate modernization of the language of the legislation by the Department of Justice.

Provincial Steering Committee on Abuse of Adults in Vulnerable Circumstances: The Commission continues its involvement with the Steering Committee, whose work led to the development of *The Powers of Attorney Regulations* and enactment of *The Powers of Attorney Act* on April 1, 2003. The work of the Steering Committee is now focusing on development of legislation respecting personal powers of attorney.

Management's Responsibility for the Financial Statements

Management is responsible for the integrity of the financial information reported by the Law Reform Commission of Saskatchewan. Fulfilling this responsibility requires the preparation and presentation of financial statements and other financial information according to the recommendations of the Public Sector Accounting Board. These recommendations are consistently applied, with any exceptions specifically described in the financial statements.

The accounting systems used by the Commission include an appropriate system of internal controls to provide reasonable assurance that:

- transactions are authorized;
- the Commission's assets are properly kept and financial reports are properly monitored to ensure reliable information is provided for preparation of financial statements and other information; and
- the accounts are properly kept and financial reports are properly monitored to ensure reliable information is provided for preparation of financial statements and other financial information.

To ensure management meets its responsibilities for financial reporting and internal control, the members of the Law Reform Commission of Saskatchewan discuss audit and reporting matters with representatives of management at regular meetings. The members of the Commission have also reviewed the financial statements with representatives of management.

The Provincial Auditor of Saskatchewan has audited the Law Reform Commission of Saskatchewan's statement of financial position as at March 31, 2003 and the related statements of operations and changes in net assets and cash flows for the year then ended. Their responsibility is to express an opinion on the fairness of management's financial statements. The Auditor's Report outlines the scope of the audit and the Provincial Auditor's opinion.

Merrilee Rasmussen, Q.C.
Chair
Regina, Saskatchewan
June 2003

LAW REFORM COMMISSION OF SASKATCHEWAN

FINANCIAL STATEMENTS

For the Year Ended March 31, 2003

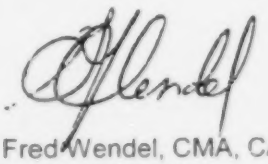
AUDITOR'S REPORT

To the Members of the Legislative Assembly of Saskatchewan

I have audited the statement of financial position of the Law Reform Commission of Saskatchewan as at March 31, 2003, and the statements of changes in net assets, operations, and cash flows for the year then ended. The Commission's management is responsible for preparing these financial statements for Treasury Board's approval. My responsibility is to express an opinion on these financial statements based on my audit.

I conducted my audit in accordance with Canadian generally accepted auditing standards. Those standards require that I plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In my opinion, these financial statements present fairly, in all material respects, the financial position of the Commission as at March 31, 2003 and the results of its operations and its cash flows for the year then ended in accordance with Canadian generally accepted accounting principles.



Regina, Saskatchewan
June 30, 2003

Fred Wendel, CMA, CA
Provincial Auditor

LAW REFORM COMMISSION OF SASKATCHEWAN
STATEMENT OF FINANCIAL POSITION
As at March 31

	2003	2002
ASSETS		
Current		
Cash (Statement 4)	$ 49,816	$ 39,233
Account Receivable	15,631	---
Prepaid Expense	---	550
	65,447	39,783
Capital assets (Note 3)	168	302
Total Assets	$ 65,615	$ 40,085
LIABILITIES AND NET ASSETS		
Current Liabilities		
Accounts Payable	$ 13,441	$ 555
Net Assets		
Net assets invested in capital assets	168	302
Unrestricted net assets	52,006	39,228
Total Net Assets (Statement 2)	52,174	39,530
Total Liabilities and Net Assets	$ 65,615	$ 40,085

(See accompanying notes to the financial statements)

LAW REFORM COMMISSION OF SASKATCHEWAN
STATEMENT OF CHANGES IN NET ASSETS
Year Ended March 31

	2003			2002
	Invested in Capital Assets	Unrestricted	Total	Total
Balance, beginning of year	$ 302	$ 39,228	$ 39,530	$ 6,151
Excess (deficiency) of revenue over expenses (Statement 3)	(134)	12,778	12,644	33,379
Investment in capital assets	---	---	---	---
Balance, end of year	$ 168	$ 52,006	$ 52,174	$ 39,530

(See accompanying notes to the financial statements)

Statement 3

LAW REFORM COMMISSION OF SASKATCHEWAN
STATEMENT OF OPERATIONS
Year Ended March 31

	2003	2002
Revenues		
General Revenue Fund appropriation	$ 60,000	$ 55,000
Law Foundation grants (Note 5)	56,250	75,350
Interest	21	15
	116,271	130,365
Expenses		
Salaries and employee benefits	75,283	80,529
Commissioners' honoraria and expenses	8,644	4,435
Conference expense	2,003	2,919
Rent	6,600	6,600
Office supplies and services	5,181	1,006
Advertising and promotions	5,124	---
Printing	---	476
Miscellaneous	658	474
Amortization expense	134	547
	103,627	96,986
Excess of revenues over expenses	$ 12,644	$ 33,379

(See accompanying notes to the financial statements)

Statement 4

LAW REFORM COMMISSION OF SASKATCHEWAN
STATEMENT OF CASH FLOWS
Year Ended March 31

	2003	2002
Cash flows from operating activities		
General Revenue Fund appropriation	$ 60,000	$ 55,000
Law Foundation grants	41,250	75,350
Interest received	21	15
Payment of prepaid expenses	---	(550)
Cash paid to suppliers and employees	(90,688)	(95,334)
Increase in cash from operating activities	10,583	34,481
Cash flows from investing activities		
Purchase of capital assets	---	(401)
Net increase in cash	10,583	34,080
Cash, beginning of year	39,233	5,153
Cash, end of year	$ 49,816	$ 39,233

(See accompanying notes to the financial statements)

LAW REFORM COMMISSION OF SASKATCHEWAN
NOTES TO THE FINANCIAL STATEMENTS
March 31, 2003

1. Incorporation

The Law Reform Commission Act was amended effective November 6, 1987. At that date the Commission became a body corporate and continued the operations of the Law Reform Commission of Saskatchewan.

The purpose of the Commission is to review all the laws of the Province with a view to its systematic development and reform and generally the simplification and modernization of the law.

2. Significant Accounting Policies

These financial statements have been prepared in accordance with Canadian generally accepted accounting principles and include the following significant accounting policies:

Revenue Recognition
The Commission follows the deferral method of accounting and recognizes unrestricted contributions as revenue when received or receivable.

Capital Assets
Capital assets are recorded at cost. The capital assets are reduced annually for the consumed cost of the asset calculated upon the straight-line method. Currently, capital assets include computers, which have a useful life of three years.

3. Capital Assets

	Cost	Accumulated Amortization	Net Book Value 2003	Net Book Value 2002
Office equipment	$ 21,144	$ 21,143	$ 1	$ 1
Computer	2,416	2,249	167	301
	$ 23,560	$ 23,392	$ 168	$ 302

4. Related Party Transactions

Included in these financial statements are transactions with various Saskatchewan Crown corporations, departments, agencies, boards and commissions related to the Law Reform Commission of Saskatchewan by virtue of common control or significant influence by the Government of Saskatchewan.

The Law Reform Commission purchased office supplies and services from the law firm of Wilson Rasmussen, one of whose partners is the chairperson of the Commission.

The following table summarizes the Commission's related party transactions that are in the normal course of operations. These transactions are recorded at the standard rates charged by these parties and are settled at normal trade terms.

	2003	2002
Operating revenues - Grant from Department of Justice	$ 60,000	$ 55,000
Operating expenditures		
University of Saskatchewan - rent, other services	7,253	7,029
Wilson Rasmussen - office supplies and services	6,649	-

In addition, the Commission pays Provincial Sales Tax to the Saskatchewan Department of Finance on all its taxable purchases. Taxes paid are recorded as a part of the cost of those purchases.

5. Law Foundation Grant

Law Reform Commission received a grant in 2003 from the Law Foundation for $56,250 (2002 - $75,350).

Publications

COMMERCIAL AND CONTRACT LAW

Personal property security legislation

Background Paper, Reform of Personal Property Security Law in Saskatchewan, May 1975

Tentative Proposals for a Saskatchewan Personal Property Security Act, February 1976

Report to the Attorney General, Proposals for a Saskatchewan Personal Property Security Act, 1977

A Handbook on the Saskatchewan Personal Property Security Act, August 1987

Tentative Proposals for a New Personal Property Security Act, 1991

Proposals for a New Personal Property Security Act, June 1992

Consumer credit

Tentative Proposals for a Consumer Credit Act, Part I: Background and Underlying Considerations, Part II: Statistics, August 1980

Tentative Proposals for a Consumer Credit Act, Part III: Secured Consumer Credit Transactions, Summary of Recommendations, May 1981

Proposals for a Consumer Credit Act, February, 1989

Frustrated contracts

Tentative Proposals for a Frustrated Contracts Act, April 1987

Proposals for a Frustrated Contracts Act, November 1988

Other

The Bulk Sales Act, June 1990

Validation of Electronic Documents (background Paper), 1994

FAMILY LAW

Matrimonial Property

First Mini-Working Paper, Division of Matrimonial Property, Problems Within the Present Law, June 1974

Second Mini-Working Paper, Division of Matrimonial Property, Possible Solutions to Problems Within the Present Law, September 1974

Third Working Paper, Division of Matrimonial Property, Tentative Proposals for Reform of Matrimonial Property Law, October 1974

Report to the Attorney General, Proposals for a Saskatchewan Matrimonial Homes Act, May 1976

Tentative Proposals for Reform of *The Matrimonial Property Act*, September 1984

Proposals Relating to Matrimonial Property Legislation, December 1985

Matrimonial Property Act: Selected Topics, 1996

Common law Relationships Under *The Matrimonial Property Act*, 1997

Maintenance

Background Paper, Family Maintenance Between Husband and Wife, November 1975

Background Paper, Children's Maintenance, January 1976

Tentative Proposals for an Enforcement of Maintenance Orders Act, March 1982

Custody

Tentative Proposals for Custody Law Reform, Part I: Substantive Law, August 1979

Tentative Proposals for Custody Law Reform, Part II: Procedures and Support Services, May 1980

Proposals on Custody, Parental Guardianship and the Civil Rights of Minors, December 1981

Tentative Proposals Relating to Testamentary Custody and Guardianship of Children, October 1984

Civil rights in the family
Tentative Proposals Relating to the Civil Rights of Children, December 1979

Tentative Proposals for an Equality of Status of Married Persons Act, May 1981

Proposals for an Equality of Status of Married Persons Act, May 1982

Other
Proposals Relating to the Change of Name of Children of Divorced Parents, March 1985

LEGISLATION, PROCEDURE AND COURTS

Limitation of Actions
Tentative Proposals for Changes in Limitations Legislation, Part I: The Effect of Limitations on Title to Real Property, July 1981

Saskatchewan Limitation Periods (Sask. Law Review), 1982

Tentative Proposals for Changes in Limitations Legislation, Part II: *The Limitation of Actions Act*, May 1986

Proposals for a New Limitation of Actions Act, April 1989

Comparison of Proposals for the Reform of Limitations of Actions, 1998

Jury Act
Tentative Proposals for Reform of *The Jury Act*, May 1979

Proposals for Reform of *The Jury Act*, December 1979

English Statutes
The Status of English Statute Law in Saskatchewan, February 1990

Proposals Relating to Distress for Rent, May 1993

The Statute of Frauds, 1996

Co-ownership of real property, 2001

MEDICAL-LEGAL

Consent of minors to health care
Tentative Proposals for a Consent of Minors to Health Care Act, November 1978

Proposals for a Consent of Minors to Health Care Act, February 1980

Legal definition of death
Tentative Proposals for a Definition of Death Act, June 1980

Proposals for a Definition of Death Act, December 1980

Commitment of the mentally ill
Tentative Proposals for a Compulsory Mental Health Care Act, November 1981

Proposals for a Compulsory Mental Health Care Act, March 1985

Tentative Proposals for a Lieutenant Governor's Review Board in Saskatchewan, January 1984

Adult guardianship and related matters
Tentative Proposals for a Guardianship Act, Part I: Personal Guardianship, January 1981

Proposals for a Guardianship Act, Part I: Personal Guardianship, January 1983

Ensuring Continuity, March 1995

Enduring Powers of Attorney (Discussion Paper), 1999-2000

Enduring Powers of Attorney (Consultation Paper) 2001

Artificial insemination
Tentative Proposals for a Human Artificial Insemination Act, November 1981

Proposals for a Human Artificial Insemination Act, March 1987

Coroners
Proposals for a New Coroners Act, September 1984

Living Wills
Proposals for an Advance Health Care Directives Act, December 1991

TORT AND INSURANCE LAW

Guest passengers and other automobile insurance matters
Proposals Relating to Guest Passenger Legislation, August 1983

Proposals for Restoring Civil Remedies Lost Upon Forfeiture Under *The Automobile Accident Insurance Act*, October 1984

Occupier's liability
Tentative Proposals for an Occupiers' Liability Act, June 1980

Proposals for an Occupiers' Liability Act, October 1980

Survival of Actions
Proposals for a Survival of Actions Act, May 1985

Joint liability
Proposals Relating to Joint Obligations, June 1990

The Insolidum Doctrine and Contributory Negligence, 1998

Interspousal Tort Immunity
Tentative Proposals for Reform of the Law Affecting Liability Between Husband and Wife and Related Insurance Contracts, March 1979

Proposals for Reform of the Law Affecting Liability Between Husband and Wife and Related Insurance Contracts, November 1979

Structured Judgments
Proposals for a Structured Judgments Act, April 1993

Liability of Volunteers
Liabilities of Volunteers and Organizations in the Not-for-profit Sector (Discussion paper), 1999

Liability of Board Members in the Not-for-profit sector (Consultation Paper), 2001

Report on the Liability of Directors and Officers of Non-profit Organizations, 2003

TRUSTS

Proposals Relating to the Rules Against Perpetuities and Accumulations, June 1987

The Rule in *Saunders v. Vautier* and the Variation of Trusts, 1994

The Investment Powers of Trustees, 1995

Retirement and Removal of Trustees, 1996 (not released)

Proposals for Reform of *The Trustees Act*, 2002

OTHER

Strict liability in provincial statutes
Working Paper, Provincial Offences: Tentative Recommendations for Reform, April 1977

Tentative Proposals for Defences to Provincial Offences, February 1981

Compensation on acquittal
Tentative Proposals for Compensation of Accused on Acquittal, July 1987

Conflict of interest in government
Report to the Attorney General, Conflict of Interest, March 1977

Unclaimed property
Unclaimed Intangible Property: Constitutional and Conflict-of-laws issues, 1998 (prepared for the Uniform Law Conference)

Ademption by Equitable Conversion
Proposals Relating to Ademption by Equitable Conversion, October 1984